

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

EDWARD BUENTIEMPPO,)	Case No. CV 13-9121-BRO (JPR)
)	
Petitioner,)	
)	ORDER ACCEPTING FINDINGS AND
vs.)	RECOMMENDATIONS OF U.S.
)	MAGISTRATE JUDGE
HEIDI M. LACKNER, Warden,)	
)	
Respondent.)	
)	
)	

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, records on file, and Report and Recommendation of the U.S. Magistrate Judge. On October 1, 2014, Petitioner filed objections to the R&R, in which he mostly simply repeats the arguments in his Petition and Traverse. Most of Petitioner's objections relate to his claims centering on the photo-lineup identifications made by the two victims; Petitioner alleges that neither witness spoke English, the record is unclear on who translated for them during the identification procedures, the identifications were unduly suggestive as a result, and his lawyer was ineffective for not challenging the identifications more vigorously. The Magistrate Judge reasonably rejected all of these arguments in the Report and Recommendation. (See R&R at 9-

1 16, 20-24.) At about the same time that the Magistrate Judge
2 filed the Report and Recommendation, the Ninth Circuit Court of
3 Appeals issued a decision affirming at least part of the
4 reasoning in it: no clearly established law holds that a witness
5 must be given an admonition before viewing a photo lineup, see
6 United States v. Carr, 761 F.3d 1068, 1076 (9th Cir. 2014), and
7 therefore no habeas relief was available on Petitioner's claims
8 asserting that even if an admonition was given, the witnesses
9 couldn't understand it (see R&R at 14). For all these reasons,
10 the Court accepts the findings and recommendations of the
11 Magistrate Judge.

12 IT IS ORDERED that the Petition is denied without leave to
13 amend, Petitioner's request for an evidentiary hearing is denied,
14 and Judgment be entered dismissing this action with prejudice.

15
16 DATED: October 21, 2014


BEVERLY REID O'CONNELL
U.S. DISTRICT JUDGE